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\*E-FILED- 8/9/13\*

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10 Co-Lead Counsel for Plaintiffs

11 UNITED STATES DISTRICT COURT  
12  
13 NORTHERN DISTRICT OF CALIFORNIA  
14  
15 SAN JOSE DIVISION

14 In re FINISAR CORP. DERIVATIVE )  
15 LITIGATION )

Master File No. C-06-07660-RMW-HRL

16 This Document Relates To: )  
17 )  
18 )

ALL ACTIONS.

~~PROPOSED~~ ORDER PRELIMINARILY  
APPROVING DERIVATIVE SETTLEMENT  
AND PROVIDING FOR NOTICE

1 WHEREAS, Plaintiffs having moved, pursuant to Federal Rule of Civil Procedure 23.1, for  
 2 an order (i) preliminarily approving the proposed derivative settlement of the Federal Action (the  
 3 "Settlement"), in accordance with a Stipulation of Settlement, dated June 24, 2013 (the  
 4 "Stipulation"), which, together with the Exhibits annexed thereto, set forth the terms and conditions  
 5 for a proposed Settlement and dismissal of the Federal Action with prejudice, upon the terms and  
 6 conditions set forth therein; and (ii) approving for distribution of the Notice of Proposed Derivative  
 7 Settlement (the "Notice"); and

8 WHEREAS, all capitalized terms contained herein shall have the same meanings as set forth  
 9 in the Stipulation (in addition to those capitalized terms defined herein); and

10 WHEREAS, this Court, having considered the Stipulation and the Exhibits annexed thereto  
 11 and having heard the arguments of the Settling Parties at the preliminary approval hearing:

12 NOW THEREFORE, IT IS HEREBY ORDERED:

13 1. This Court does hereby preliminarily approve, subject to further consideration at the  
 14 Settlement Hearing described below, the Stipulation and the Settlement set forth therein, including  
 15 the terms and conditions for settlement and dismissal with prejudice of the Federal Action.

16 2. A hearing (the "Settlement Hearing") shall be held before this Court on October 18,  
 17 2013, at 9:00 a.m., 2112 Robert F. Peckham Federal Building and United States Courthouse, 280  
 18 South First Street, San Jose, California, to determine whether the Settlement of the Federal Action  
 19 on the terms and conditions provided for in the Stipulation is fair, reasonable and adequate to Finisar  
 20 Corporation ("Finisar") and its stockholders and should be approved by the Court; whether a  
 21 Judgment as provided in ¶1.11 of the Stipulation should be entered herein; and whether to award  
 22 attorneys' fees and expenses to Plaintiffs' Counsel.

23 3. The Court approves, as to form and content, the Notice of Proposed Derivative  
 24 Settlement annexed as Exhibit A-1 (the "Long-Form Notice") hereto and the Short Form Notice of  
 25 Proposed Derivative Settlement annexed as Exhibit A-2 (the "Summary Notice"), and finds that the  
 26 publication of the Long-Form Notice, Summary Notice and Stipulation substantially in the manner  
 27 and form set forth in this Order, meets the requirements of Federal Rule of Civil Procedure 23.1 and

1 due process, and is the best notice practicable under the circumstances and shall constitute due and  
2 sufficient notice to all Persons entitled thereto.

3 4. Not later than five (5) business days following entry of this Order, Finisar shall: (a)  
4 cause a copy of the Summary Notice, substantially in the form annexed as Exhibit A-2 hereto, to be  
5 published one time in the national edition of *Investor's Business Daily*, (b) cause a copy of the Long-  
6 Form Notice, substantially in the form annexed as Exhibit A-1 hereto, and the Stipulation to be filed  
7 with the U.S. Securities and Exchange Commission ("SEC") on an SEC Form 8-K or other  
8 appropriate filing, and (c) publish the Stipulation and Long-Form Notice on an Internet page created  
9 by Finisar that will be accessible via Finisar's website, the address of which shall be contained in the  
10 Long-Form Notice and Summary Notice.

11 5. Not later than twenty-one (21) days after Finisar has complied with ¶4, Finisar's  
12 counsel shall serve on Plaintiffs' Counsel and file with the Court proof, by affidavit or declaration,  
13 of such publication.

14 6. All Finisar stockholders shall be bound by all orders, determinations and judgments  
15 in the Federal Action concerning the Settlement, whether favorable or unfavorable to Finisar's  
16 stockholders.

17 7. Pending the Effective Date, all proceedings and discovery in the Federal Action shall  
18 be stayed except as otherwise provided for in the Stipulation, and no party to the Federal Action or  
19 any Finisar stockholders shall file or prosecute any action or proceeding in any court or tribunal  
20 relating to the Settlement or asserting any of the Released Claims against the Released Persons.

21 8. All papers in support of the Settlement and the separately negotiated attorneys' fees  
22 and expenses shall be filed with the Court and served at least thirty-five (35) calendar days before  
23 the Settlement Hearing and any reply briefs shall be filed with the Court at least seven (7) calendar  
24 days before the Settlement Hearing.

25 9. Any current Finisar stockholder may appear and show cause, if he, she or it has any  
26 reason why the terms of the Settlement of the Federal Action should not be approved as fair,  
27 reasonable and adequate, or why the District Court Approval Order and Judgment should not be

1 entered thereon, provided, however, unless otherwise ordered by the Court, no current Finisar  
 2 stockholder shall be heard or entitled to contest the approval of all or any of the terms and conditions  
 3 of the Settlement, or, if approved, the District Court Approval Order and the Judgment to be entered  
 4 thereon approving the same, unless that Person has, at least twenty-one (21) calendar days before the  
 5 Settlement Hearing, filed with the Clerk of the Court and served on the following counsel (delivered  
 6 by hand or sent by first class mail) appropriate proof of stock ownership, along with written  
 7 objections, including the basis therefore, and copies of any papers and briefs in support thereof:

8 ***Counsel for Federal Plaintiffs***

9 Jeffrey D. Light  
 10 ROBBINS GELLER RUDMAN  
 & DOWD LLP  
 11 655 West Broadway, Suite 1900  
 San Diego, CA 92101

12 ***Counsel for Nominal Party Finisar and Defendants David Fries, Harold  
 Hughes and Gregory Olsen***

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 14 DLA PIPER LLP  
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 15 San Diego, CA 92101

16 ***Counsel for Defendants Stephen K. Workman, David Buse, John Drury,  
 Mark Farley, Jan Lipson, Joseph Young, Fariba Danesh and Dallas W.  
 Meyer***

17 Sarah A. Good  
 18 PILLSBURY WINTHROP SHAW  
 19 PITTMAN LLP  
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21 ***Counsel for Defendant Richard Lieb***

22 Lawrence F. Hoyle, Jr.  
 23 THE HOYLE LAW FIRM  
 One South Broad Street, Suite 1500  
 24 Philadelphia, PA 19107

25 ***Counsel for Defendants Michael C. Child, Roger C. Ferguson, Frank H.  
 Levinson, Robert N. Stephens and Dominique Trempont***

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2 GOODWIN PROCTER LLP  
3 135 Commonwealth Drive  
4 Menlo Park, CA 94025

*Counsel for Defendant Jerry S. Rawls*

5 Jared L. Kopel  
6 LAW OFFICES OF JARED L. KOPEL  
7 303 Almaden Blvd., Suite 520  
8 San Jose, CA 95110

9 The written objections and copies of any papers and briefs in support thereof to be filed in Court  
10 shall be delivered by hand or sent by first class mail to:

11 Clerk of the Court  
12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 2112 Robert F. Peckham Federal Building  
15 and United States Courthouse  
16 280 South First Street  
17 San Jose, CA 95113

18 Any current Finisar stockholder who does not make an objection in the manner provided herein shall  
19 be deemed to have waived such objection and shall forever be foreclosed from making any objection  
20 to the fairness, reasonableness or adequacy of the Settlement as incorporated in the Stipulation and  
21 to the award of attorneys' fees and expenses to Plaintiffs' Counsel, unless otherwise ordered by the  
22 Court, but shall otherwise be bound by the District Court Approval Order and the Judgment to be  
23 entered and the releases to be given.

24 10. Neither the Stipulation nor the Settlement, including the Exhibits attached thereto, nor  
25 any act performed or document executed pursuant to or in furtherance of the Stipulation or the  
26 Settlement: (a) is or may be deemed to be or may be offered, attempted to be offered or used in any  
27 way as a concession, admission, or evidence of the validity of any Released Claims or any fault,  
28 wrongdoing or liability of the Released Persons or Finisar; or (b) is or may be deemed to be or may  
be used as a presumption, admission, or evidence of any liability, fault or omission of any of the  
Released Persons or Finisar in any civil, criminal or administrative or other proceeding in any court,  
administrative agency, tribunal or other forum. Neither the Stipulation nor the Settlement, nor any  
act performed or document executed pursuant to or in furtherance of the Stipulation or the

1 Settlement, shall be admissible in any proceeding for any purpose, except to enforce the terms of the  
2 Settlement, and except that the Released Persons may file or use the Stipulation, the District Court  
3 Approval Order and/or the Judgment in any action that may be brought against them in order to  
4 support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, full faith  
5 and credit, release, standing, judgment bar or reduction or any other theory of claim preclusion or  
6 issue preclusion or similar defense or counterclaim.

7 11. any other dates set forth herein without further notice to Finisar stockholders, and  
8 retains jurisdiction to consider all further applications arising out of or connected with the  
9 Settlement. The Court may approve the Settlement, with such modifications as may be agreed to by  
10 the Settling Parties, if appropriate, without further notice to Finisar stockholders.

11 IT IS SO ORDERED.

12 DATED: 8/9/13



THE HONORABLE RONALD M. WHYTE  
UNITED STATES DISTRICT JUDGE

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14  
15 Submitted by,

16 ROBBINS GELLER RUDMAN  
17 & DOWD LLP  
18 SHAWN A. WILLIAMS  
19 CHRISTOPHER M. WOOD

20 s/ Shawn A. Williams  
SHAWN A. WILLIAMS

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28 Co-Lead Counsel for Plaintiffs

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